DOCKET NO.: 2007-1351-PST-E **TCEQ ID:** RN104793286 **CASE NO.:** 34518

RESPONDENT NAME: First County, Inc. dba Texan Food Mart

ORDER TYPE:								
X 1660 AGREED ORDERFINDINGS AGREED ORDERFINDINGS ORDER FOLLOWING SOAH HEARING								
FINDINGS DEFAULT ORDER								
_AMENDED ORDEREMERGENCY ORDER								
CASE TYPE:								
AIRMULTI-MEDIA (check all that apply)INDUSTRIAL AND HAZARDOUS WASTE								
PUBLIC WATER SUPPLY	_PUBLIC WATER SUPPLY X PETROLEUM STORAGE TANKSOCCUPATIONAL CERTIFICATION							
WATER QUALITYSEWAGE SLUDGEUNDERGROUND INJECTION CONTROL								
MUNICIPAL SOLID WASTERADIOACTIVE WASTEDRY CLEANER REGISTRATION								
SITE WHERE VIOLATION(S) OCCURRED: Texan Food Mart, 101 County Line Road, Willis, Montgomery County TYPE OF OPERATION: Convenience store with retail sales of gasoline SMALL BUSINESS: _X_YesNo OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location. INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter. COMMENTS RECEIVED: The Texas Register comment period expired on January 22, 2008. No comments were received. CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Philip DeFrancesco, Enforcement Division, Enforcement Team 6, MC R-04, (817) 588-5933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Amin Maredia, President, First County, Inc. , 5615 Richmond Avenue, Suite 230, Houston, Texas 77057 Respondent's Attorney: Not represented by counsel on this enforcement matter								

RESPONDENT NAME: First County, Inc. dba Texan Food Mart **DOCKET NO.:** 2007-1351-PST-E

VIOLATION SUMMARY CHAR	Γ:	
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED 1001 /
Type of Investigation: Complaint	Total Assessed: \$4,470	Corrective Actions Taken:
X Routine Enforcement Follow-up Records Review	Total Deferred: \$894 X Expedited Settlement Financial Inability to Pay	The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
Date(s) of Complaints Relating to this Case: None	SEP Conditional Offset: \$0	a. Successfully conducted annual testing of the Stage II equipment on July 23, 2007;
Date of Investigation Relating to this Case: July 10, 2007	Total Paid to General Revenue: \$3,576	and
Date of NOV/NOE Relating to this Case: August 15, 2007 (NOE)	Site Compliance History Classification High X Average Poor	b. Successfully tested the line leak detectors for performance and operational reliability and conducted annual piping
Background Facts: This was a routine investigation. Three violations were	Person Compliance History Classification High X Average Poor	tightness tests on July 23, 2007.
documented.	Major Source: Yes X No	A Company
WASTE	Applicable Penalty Policy: September 2002	and the state of t
1) Failed to provide proper release detection for the piping associated with the underground storage tank ("UST") system. Specifically, the annual piping tightness test had not been conducted [30 Tex. ADMIN. CODE § 334.50(b)(2) and Tex. WATER CODE § 26.3475(a)].		en de la companya de
2) Failed to test the line leak detectors at least once per year for performance and operational reliability [30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), and Tex. WATER CODE § 26.3475(a)].		A CONTRACTOR STATES OF THE STA
3) Failed to verify proper operation of the Stage II equipment at least once every 12 months. Specifically, the Stage II annual system compliance testing had not been conducted [30 Tex. ADMIN. CODE § 115.245(2) and Tex. Health & Safety Code § 382.085(b)].		
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Additional ID No(s).: PST 77667

Notes The Respondent does not meet the culpability criteria. Subtotal 5 \$1,25		tember 2002)			n Works		PCW Revision Sep	tember 19, 2007
SPONDENTFACILITY INFORMATION Respondent [First County, Inc. dba Texan Food Mart Reg. Ent. Ref. No. [RN104793286] Facility/Site Region [12-Houston] SE INFORMATION EINf.Case ID No.]454518 Dockst No. 2007-1351-PST-E Dockst No. 2007-1351-PST-E Media Program(s) Petroleum Storage Tank Multi-Media Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section OTAL BASE PENALTY (Sum of violation base penalties) DIJUSTMENTS (+/-) TO SUBTOTAL 1 Subbiblia 2 are oblaned by multiplying the Total Base Penalty (Subbiblia 1) by the indicated percentage. Compliance History Notes No adjustment due to compliance history. Culpability No 0% Entercoment Subtotal 2 3, & 7 \$ The Respondent does not meet the culpability criteria. Good Faith Effort to Comply Before NoV NOV to EDPRP-Settlement Offer Extraordinary Confining X (mark with x) Notes The Respondent came into compliance on July 23, 2007. UM OF SUBTOTALS 1-7 Final Subtotal 5 \$3,72 Total EB Amounts \$700 NOV to EDPRP-Settlement Offer Approx. Cost of Compliance \$750 NOV to EDPRP-Settlement Offer Confining X (mark with x) Notes The Respondent came into compliance on July 23, 2007. Final Subtotal 5 \$3,72 Subtotal 5 \$3,72 Total EB Amounts \$750 NOV to EDPRP-Settlement Offer Confining X (mark with x) Notes Recommended enhancement to capture the avoided cost associated with the violation. Final Penalty Amount Subtotal 5 \$3,72 THER FACTORS AS JUSTICE MAY REQUIRE 199% Reduction Notes Final Penalty Amount Final Assessed Penalty by the indicated percentage. Final Assessed Penalty by the indicated percentage. Final Assessed Penalty by the indicated percentage. EFERRAL 20% Reduction Adjustment 484.4	ATES Assigned	14 Ava 2007						
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Total EB Amounts \$790		Control (s.), postantia i sette des l'hermite de	Teath (Profession	•	y iliyah mala	sage of sages of	6	d
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EFERRAL 20% Reduction Adjustment -\$89 duces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)			1.50.815.02.036.				ner Occupant Terrins	
educes the Final Assessed Penalty by the indicted percentage. (Enter number only, e.g. 20 for 20% reduction.)	TATUTORY LIMIT A	ADJUSTMENT				Final Ass	essed Penalty	\$4,47
educes the Final Assessed Penalty by the indicted percentage. (Enter number only, e.g. 20 for 20% reduction.)					200/	Deduction	Adiustmant	
	GEEDDAI MONTHE		nontogo	(Enter number ante	A	The continue to the second of the	Adjustinent	-405
Notes Deferral offered for expedited settlement.	DEFERRAL educes the Final Assessed Per	nalty by the indicted perc	Jeniage.	(Enter number only,				
		nalty by the indicted perc	entage.	(Enter number only,				
	educes the Final Assessed Per				ted settlement.			• .

Scre	ening Date 21-Aug-2007 Docket No. 2007-1351-PST-E	. \	
R	espondent First County, Inc. dba Texan Food Mart	Policy R	Revision 2 (Septe
C	ase ID No. 34518		evision Septemb
g, Ent. Ref	erence No. RN104793286		
	a [Statute] Petroleum Storage Tank	jan e	
Enf. C	pordinator Philip DeFrancesco		in a fact of the same of the s
	Compliance History Worksheet	n in de la companya de la de El la companya de la del	is Atomic Continues (Mar) B
	ry Site Enhancement (Subtotal 2)		
Componen		nter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1 3 0 3 333	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	. To provide the second of the	0%
Judgment	107.101.107		0%
and Conse Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	in a prima basing in exp 0 and its	0%
Conviction		0	0%
Emissions		0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
ri i i	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Pleas	e Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Julei	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Po	orcontago /S	ubtotal 3)
	Aujusunent Pe	aye (o	univiai Z)
eat Violator (S	Subtotal 3)		
	No Adjustment Po	ercentage (S	ubtotal 3)
npliance Histo	ry Person Classification (Subtotal 7)		
X.2====	Performer Adjustment Pe	oroontogo (S	btoto1 7)

No adjustment due to compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7)

Compliance History

Notes

Screening Date	21-Aug-2007 Docket No. 2007-1351-PST-E	PCW
Respondent	First County, Inc. dba Texan Food Mart	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision September 19, 2007
Reg. Ent. Reference No.	RN104793286	***************************************
Media [Statute]	Petroleum Storage Tank	***************************************
Enf. Coordinator	Philip DeFrancesco	
Violation Number	1	www.
Rule Cite(s)	30 Tex. Admin. Code § 334.50(b)(2), (b)(2)(A)(i)(III), and Tex. Water Code 26.3475(a)	§
Violation Description	Failed to provide proper release detection for the piping associated with the taystem. Specifically, the annual piping tightness test had not been conducted. failed to test the line leak detectors at least once per year for performance a operational reliability.	Also,
	Base F	Penalty \$10,000
>> Environmental, Property	and Human Health Matrix	
	Harm	***************************************
Release		***************************************
OR Actua Potentia		***************************************
Potentia	X Percent 25%	aaaaaa
>>Programmatic Matrix		·
Falsification	Major Moderate Minor	······································
	Percent 0%	Name of the Contract of the Co
Matrix Human hea	alth or the environment will or could be exposed to pollutants which would exceed e protective of human health or environmental receptors as a result of the violation	levels n.
	Adjustment	\$7,500
	Adjustificity	
annon		\$2,500
Violation Events		
Number of V	olation Events 1 365 Number of violation days	
TAGINISON OF V		
mark only one with an x	daily monthly Violation Base semiannual x	Penalty \$2,500
	single event	
One a	nnual event is recommended for the 12-month period preceeding the July 10, 200 investigation.)7
Economic Benefit (EB) for the	nis violation Statutory Limit Test	
Estimate	ed EB Amount \$269 Violation Final Penal	ty Total \$2,235
		- IIi4-) 60 005
	This violation Final Assessed Penalty (adjusted fo	r limits) \$2,235

Case ID No. 3451 Reg. Ent. Reference No. RN10 Media Petro Violation No. 1 Ite Item Description No. Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed) Notes for DELAYED costs	04793286 oleum Stora em Cost	Date Required	Final Date	Yrs	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	\$0 \$0 \$0 \$0 \$0 \$0 r/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$
Media Petro Violation No. 1 Ite Item Description No co Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)	oleum Stora	Date Required		0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	\$0 \$0 \$0 \$0 \$0 \$0 n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$
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Item Description No control No co				0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	\$0 \$0 \$0 \$0 \$0 n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$
Delayed Costs Equipment Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)	commes or \$	<u> </u>	Hobs to be	0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$	\$0 \$0 \$0 \$0 n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Equipment Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Equipment Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Buildings Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 \$0 n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0
Other (as needed) Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)	X W X			0.0 0.0 0.0 0.0 0.0 0.0 0.0	\$0 , \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$0 n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0 \$0
Engineering/construction Land Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)	3			0.0 0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0 \$0	n/a n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0 \$0
Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0 \$0	n/a n/a n/a n/a n/a n/a	\$0 \$0 \$0 \$0 \$0
Record Keeping System Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0 0.0	\$0 \$0 \$0 \$0	n/a n/a n/a n/a	\$0 \$0 \$0 \$0
Training/Sampling Remediation/Disposal Permit Costs Other (as needed)				0.0 0.0 0.0	\$0 \$0 \$0	n/a n/a n/a	\$0 \$0 \$0
Remediation/Disposal Permit Costs Other (as needed)				0.0	\$0 \$0	n/a n/a	\$0 \$0
Permit Costs Other (as needed)				0.0	\$0	n/a	\$0
				100			ΦO
Notes for DELAYED costs				11 0.0 1	\$0	n/a	\$0
II			Nanyah)		ing a sait with a T		
Avoided Costs	ANN	IUALIZE [1] avoide	d costs before e	entering i	tem (except for a	one-time avoided c	osts)
Disposal	5145943		· · · · · · · · · · · · · · · · · · ·	0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$245	10-Jul-2006	23-Jul-2007.	2.0	\$24	\$245	\$269
Other (as needed)				0.0	\$0	\$0	\$0
			red is one year pr		Investigation date	ual line leak detecto and the final date is	
! -		· · · · · · · · · · · · · · · · · · ·			T		

Screening Date		PGW
	First County, Inc. dba Texan Food Mart	Policy Revision 2 (September 2002)
Case ID No.		PCW Revision September 19, 2007
Reg. Ent. Reference No.		***************************************
	Petroleum Storage Tank	
Enf. Coordinator Violation Number		
violation Number Rule Cite(s)	2	
Rule Oile(3)	30 Tex. Admin. Code § 115.245(2) and Tex. Health & Safety Code § 382.08	55(b)
Violation Description	Failed to verify proper operation of the Stage II equipment at least once ever months. Specifically, the Stage II annual system compliance testing had not conducted.	
	Base	Penalty \$10,000
>> Environmental, Property a	ind Human Health Matrix	***************************************
A STATE OF THE STA	Harm Malanta Minar	
Release OR Actual		***************************************
Potential	<u> </u>	
		-
>>Programmatic Matrix		
Falsification	Major Moderate Minor Percent 0%	
	Percent 070	,
Matrix Notes Human healt	h or the environment will or could be exposed to pollutants which would exceed le protective of human health or environmental receptors as a result of the violation.	vels that
	Adjustment	\$7,500
900		\$2,500
		Ψ2,000
Violation Events		
Number of Vi	olation Events 1 365 Number of violation days	S
mark only one with an x	daily monthly quarterly Violation Base semiannual	Penalty \$2,500
	annual x single event	
One annual	event is recommended for the 12-month period preceeding the July 10, 2007 inve date.	estigation
Economic Benefit (EB) for th	nis violation Statutory Limit Tes	it i i i i i i i i i i i i i i i i i i
•	d EB Amount \$521 Violation Final Pena	alty Total \$2,235
	This violation Final Assessed Penalty (adjusted for	or limits) \$2,235
		and the second second second

	E	conomic l	Benefit W	orks	heet	***************************************	
Respondent		nc. dba Texan Food			a e e e		
Case ID No.	34518						
Reg. Ent. Reference No.	RN104793286						
	Petroleum Stor						Years of
Violation No.		-9		(7)	11 fe + 1	Percent Interest	Depreciation
Violation 140.	_					5.0	
						***************************************	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$	40.0	59.753845			40 (10)	
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings		- 1 1 1 1 1 1 1 1 1	yers of the section	0.0	\$0	\$0	\$0
Other (as needed)	77.4		50 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C 1 C	0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)		<u> </u>		0.0	\$0	n/a	\$0
				1 1 × 11 × 1	1966年1月2日 - 1967年 - 19	PARTY MARKET	
Notes for DELAYED costs					Part Control		
	:		and the second		angelika Kalingga Nagara	persolosi	
			4			Annual Control	٠
Avoided Costs	ANN	NUALIZE [1] avoide	ed costs before e	entering	item (except for	one-time avoided c	osts)
Disposal				0.0	\$0	\$0	\$0 ·
Personnel				0,0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$ 0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]			1	0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$475	10-Jul-2006	23-Jul-2007	2.0	\$46	\$475	\$521
' Other (as needed)				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3] Other (as needed)				0.0	\$0	\$475 \$0 erify proper operation	\$0
Notes for AVOIDED costs			ed is one year prio		nvestigation date	and the Final Date is	
	زداد دی						
Approx. Cost of Compliance		\$475	•		TOTAL		\$521

Compliance History

Customer/Respondent/Owner-Operator:	CN602942443	First County, Inc.		Classification: AVERAG	j⊨	Rating: 3.01	ı
Regulated Entity:	RN104793286	TEXAN FOOD MART		Classification: AVERAGI	E BY	Site Rating:	3.0
ID Number(s):	PETROLEUM ST REGISTRATION	ORAGE TANK	REGISTRAT	ION	7	7667	
Location:		IE RD, WILLIS, TX, 77378		Rating Date: 9/1/2006 F	Repeat	Violator: NO	
TCEQ Region:	REGION 12 - HO	USTON				•	
Date Compliance History Prepared:	August 20, 2007						
Agency Decision Requiring Compliance History:	Enforcement						
Compliance Period:	August 20, 2002 t	o August 20, 2007					
TCEQ Staff Member to Contact for Additional Info	rmation Regarding t	his Compliance History					
Name: Philip DeFrancesco	Ph	one: (817) 588-5933					
	Site C	ompliance History Comp	oonents				
1. Has the site been in existence and/or operation	for the full five year	compliance period?	No				
2. Has there been a (known) change in ownership	of the site during th	e compliance period?	No				
3. If Yes, who is the current owner?			N/A	·			
4. if Yes, who was/were the prior owner(s)?		N/A					
5. When did the change(s) in ownership occur?			N/A				
Components (Multimedia) for the Site :							
A. Final Enforcement Orders, court judger	ments, and consent	decrees of the state of Texas	and the federal	government.			
N/A							
B. Any criminal convictions of the state of N/A	Texas and the fede	ral government.					
C. Chronic excessive emissions events.							
N/A							
D. The approval dates of investigations. (0 1 08/14/2007 (567825)	CCEDS Inv. Track. I	No.)					
E. Written notices of violations (NOV). (CC	CEDS Inv. Track. No	p.)					
F. Environmental audits. N/A							
G. Type of environmental management sy	vstems (EMSs).						
N/A							
H. Voluntary on-site compliance assessment	ent dates.						
N/A							
I. Participation in a voluntary pollution red	duction program.						
N/A							
J. Early compliance.							
N/A							
Sites Outside of Texas							
N/A							

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§ ·	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
FIRST COUNTY, INC. DBA TEXAN	§	
FOOD MART	§	ENVIRONMENTAL QUALITY
RN104793286	Ü	_

AGREED ORDER DOCKET NO. 2007-1351-PST-E

I. JURISDICTION AND STIPULATIONS

At its ______ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding First County, Inc. dba Texan Food Mart ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns and operates a convenience store with retail sales of gasoline at 101 County Line Road in Willis, Montgomery County, Texas (the "Station").
- 2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. The Station consists of one or more sources as defined in Tex. Health & Safety Code § 382.003(12).
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 20, 2007.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

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- 6. An administrative penalty in the amount of Four Thousand Four Hundred Seventy Dollars (\$4,470) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Five Hundred Seventy-Six Dollars (\$3,576) of the administrative penalty and Eight Hundred Ninety-Four Dollars (\$894) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Station:
 - a. Successfully conducted annual testing of the Stage II equipment on July 23, 2007; and
 - b. Successfully tested the line leak detectors for performance and operational reliability and conducted annual piping tightness tests on July 23, 2007.
- 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Station, the Respondent is alleged to have:

- 1. Failed to provide proper release detection for the piping associated with the UST system, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2) and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 10, 2007. Specifically, the annual piping tightness test had not been conducted.
- 2. Failed to test the line leak detectors at least once per year for performance and operational reliability, in violation of 30 Tex. ADMIN. CODE § 334.50(b)(2)(A)(i)(III), and Tex. WATER CODE § 26.3475(a), as documented during an investigation conducted on July 10, 2007.

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3. Failed to verify proper operation of the Stage II equipment at least once every 12 months, in violation of 30 Tex. ADMIN. CODE § 115.245(2) and Tex. Health & Safety Code § 382.085(b), as documented during an investigation conducted on July 10, 2007. Specifically, the Stage II annual system compliance testing had not been conducted.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: First County, Inc. dba Texan Food Mart, Docket No. 2007-1351-PST-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Station operations referenced in this Agreed Order.
- 3. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
Hor the Executive Director	Date 1/21/2008
I the undersigned have read and understand the	an attached Agreed Order. I am outhorized to agree

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Da

Name (Printed or typed)

Authorized Representative of

First County, Inc. dba Texan Food Mart

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

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